IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 397 of 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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BHAGVATIBEN WD/O M B TRIVEDI & 4 - Appellant(s)
Versus
JANMOHMED S SIPAI & 1 - Defendant(s)

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Appearance :
MR PRAKASH K JANI for Appellant(s) : 1 - 5.
NOTICE SERVED for Defendant(s) : 1,
MR HARDIK C RAWAL for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 23/08/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellants have challenged the judgment and award of the Motor Accident Claims Tribunal (Main), Banaskantha at Palanpur passed in M.A.C.P. No.76 of 1981 whereby the Tribunal partly allowed the said petition.

2.0 The brief facts of the case are that on 24.11.1980, when the deceased-Manubhai was coming

out from the S.T. Stand at Deesa, he was dashed by a bus driven by present opponent No.1 and owned by present opponent No.2. On account of the said accident the deceased received serious bodily injuries and expired. Therefore, the present appellants being heirs and legal representatives of the deceased filed a petition claiming an amount of Rs.50,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard learned Counsel for the appellants and opponent No.2. Though, served none appears on behalf of the opponent No.1. It was the case of the appellants before the Tribunal that on the day of incident when the deceased was coming out of the S.T. Stand at Deesa, opponent No.1 drove the bus in rash and negligent manner without blowing horn and on account of that the deceased

met with the said accident and lost his life. However, opponent No.1 has controverted the story put forward by the appellants vide his written statements (Exh.10). In his written statements, he has stated that while coming towards the gate of the S.T. Stand at Deesa, the deceased fell down on a heap of stones and got himself injured and that the bus driven by him not at all touched the deceased as is alleged by the appellants. However, the Tribunal did not believe the story narrated by opponent No.1. On perusal of documents produced at Exh.31, 22, 23 and 26 i.e. true copies of the Complaint, 'Panchnama' of the scene of offence, post-mortem notes and inquest panchnama it clearly transpires that the deceased received multiple injuries on account of the accident caused by the bus driven by opponent No.1. Therefore, the Tribunal is justified in holding that the appellants are entitled for compensation.

3.1 While considering the aspect of

compensation, the Tribunal has taken into consideration the medical and other evidence available on record. Looking to age of the deceased, the nature of injuries sustained by him and considering the fact that he was earning Rs.300/- per month, the compensation awarded by the Tribunal, in my opinion, is just and reasonable. No case has been made out by the appellants for enhancement of the amount of compensation. I am, therefore, in complete agreement with the reasonings given and the findings arrived at by the Tribunal and, hence, do not find any reason to interfere in this appeal.

4.0 In the result, the appeal is dismissed. No order as to costs.

(K. S. Jhaveri, J.)

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